

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )

Amendment of Section 73.202(b), )

Table of Allotments, )

FM Broadcast Stations. )

(Dayton, Washington and Weston, Oregon) )

MM Docket No. 98-90

RM-9270

**REPORT AND ORDER**  
**(Proceeding Terminated)**

Adopted: January 27, 1999;

Released: February 5, 1999

By the Chief, Allocations Branch:

1. At the request of Dayton Broadcasting Company ("petitioner"), licensee of Station KZZM(FM), Channel 272A, Dayton, Washington, the Commission has before it the *Notice of Proposed Rule Making*, 13 FCC Rcd 11931 (1998), proposing the substitution of Channel 270C2 for Channel 272A at Dayton, Washington, the reallocation of Channel 270C2 from Dayton to Weston, Oregon, and the modification of Station KZZM(FM)'s license accordingly. Petitioner filed comments in support of the proposal reaffirming its intention to apply for the channel, if reallocated to Weston, Oregon. No other comments were received.

2. The proposed reallocation of Channel 270C2 from Dayton, Washington, to Weston, Oregon, was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permit the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. *See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990). In support of its proposal, petitioner states that Weston (population 606)<sup>1</sup> is the oldest incorporated city in Umatilla County. Weston has its own mayor, four councilmen, its own school district, water district, churches, police department, city hall, public library, and is home to the East Umatilla Fire District. It also has its own zip code, phone book, and phone prefix. The community has businesses, and a downtown shopping district with numerous stores, restaurants, and a bank.

<sup>1</sup>Population figure taken from the 1990 U.S. Census.

3. In the *Notice*, we noted that there would be areas which would lose existing reception service as well as areas which would gain reception service. We also noted that petitioner claimed that reallocation to Weston would result in service to 156% more people in a 212% larger area. We asked petitioner to submit information detailing the overall public interest benefits that would be derived from the reallocation. Petitioner submits that the upgrade and reallocation of Station KZZM(FM) to Weston would provide new service to more than 16,000 persons in an area more than twice that presently served by the station. Petitioner further submits that the loss area would continue to be served by five or more full-time reception services and is considered to be well-served. Moreover, petitioner asserts that the reallocation would result in a preferential arrangement of allotments because it would provide Weston with its first local aural service, without depriving Dayton of its sole local aural service, since Station KZHR-FM would remain licensed to the community, citing Willows and Dunnigan, California, 10 FCC Rcd 11522 (1995); and Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).

4. We believe the public interest would be served by reallocating Channel 270C2 from Dayton, Washington to Weston, Oregon, since it would enable Station KZZM(FM) to expand its service area, without depriving Dayton of its sole local aural service. The reallocation will provide Weston with its first local aural transmission service, thus fulfilling priority (3) of the allotment priorities.<sup>2</sup> While we are concerned with loss of service to an area of 1,256.21 square kilometers (485.2 square miles) consisting of 4,585 persons, our engineering analysis shows that the gain area will provide service to an area of 7,292.16 square kilometers (2,816.7 square miles) consisting of 83,813 persons, resulting in a net gain area of 6,035.95 square kilometers (2,331.5 square miles) consisting of 79,228 persons. Although petitioner claims the upgrade and reallocation will provide "new" service to more than 16,000 people, our engineering analysis reveals that no gray or white areas would be served by the reallocation.<sup>3</sup>

#### Technical Summary

5. An engineering analysis has determined that Channel 270C2 can be allotted to Weston, Oregon, in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at petitioner's requested transmitter site.<sup>4</sup>

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and

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<sup>2</sup> The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3). See Revision of FM Assignment Policies and Procedures, *supra*.

<sup>3</sup>For purposes of FM allotments a white area is a geographical area that is not served by any full-time aural service and a gray area is one that is served by only one full-time aural service.

<sup>4</sup> The coordinates for Channel 270C2 at Weston are 45-47-12 North Latitude and 118-15-46 West Longitude.

0.283 of the Commission's Rules, IT IS ORDERED, That effective March 22, 1999, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Dayton, Washington	223C1
Weston, Oregon	270C2

7. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Dayton Broadcasting Company for Station KZZM(FM) Dayton, Washington, IS MODIFIED to specify Channel 270C2 in lieu of Channel 272A at Weston, Oregon, as its new community of license, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, **if the request is granted**, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Dayton Broadcasting Company, licensee of Station KZZM(FM) is required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license and upgrade.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

**FEDERAL COMMUNICATIONS COMMISSION**

**John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau**